

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Tony Martinez

Defendant

Magistrate Case Number:

FILED
'07 MJ 2668
2007 NOV 14 AM 11:29

COMPLAINT FOR VIOLATION OF

21 U.S.C., Sections 952 and 960
Importation of a Controlled Substance

SOUTHERN DISTRICT OF CALIFORNIA


DEPUTY

The undersigned complaint being duly sworn states:

COUNT 1

On November 13, 2007, within the Southern District of California, Tony MARTINEZ did knowingly and intentionally import approximately 51.52 kilograms of marijuana, a Schedule I Controlled Substance, into the United States from a place outside thereof; in violation of Title 21, United States Code, Sections 952 and 960.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT
Special Agent
U.S. Immigration and Customs
Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 14th DAY OF NOVEMBER, 2007.


UNITED STATES MAGISTRATE JUDGE



STATEMENT OF FACTS

On November 13, 2007, at approximately 10:45pm, Tony MARTINEZ entered the United States from Mexico at the Otay Mesa, California Port of Entry (POE). MARTINEZ was the driver of a blue 1986 Dodge van bearing license CAUS/1PCW424. MARTINEZ was the sole occupant in the vehicle.

Customs and Border Protection Officer (CBPO) Tanquilut was assigned lane # 9 when MARTINEZ applied for entry into the United States. CBPO Tanquilut asked MARTINEZ his citizenship and what he was bringing in from Mexico. MARTINEZ claimed United States citizenship and presented a California State Identification Card (N7988993). MARTINEZ gave two negative customs declarations. MARTINEZ told CBPO Tanquilut "he was just wasting his time for referring him to the secondary lot".

In the secondary lot, Canine Enforcement Officer (CEO) Leslie utilized the assigned Narcotics Detector Dog (NDD) "VIC" (CG-45) to screen the aforementioned vehicle. During the initial sweep of the vehicle, "VIC" alerted to a narcotic odor emanating from the left rear tire well. Upon entry into the vehicle, "VIC" also alerted to a narcotic odor emanating from the rear side wall adjacent to the rear door and responded by sitting and also by "locking out" on the rear seam of the side wall.

CBPO Madrigal was assigned to conduct a seven point inspection of the blue 1986 Dodge van, CAUS/1PCW424. CBPO Madrigal pulled back the manufacturer's cloth/plastic partitions off the right side interior wall and discovered various packages wrapped in duct tape and cellophane wrap. CBPO Madrigal opened a random package. The package contained a green leafy substance that tested positive for marijuana. A total of 34 packages were discovered for a net weight of 51.52 kilograms.

On November 14, 2007, at approximately 3:30am, Immigration and Customs Enforcement (ICE) Special Agent McDaniel, witnessed by Special Agent Lensky, advised MARTINEZ of his Miranda Rights. MARTINEZ invoked his constitutional rights per Miranda and stated he did not want to make a statement regarding the marijuana discovered in the vehicle. MARTINEZ was charged with violation of Title 21 USC 952 and 960, Importation of a Controlled Substance, and booked into MCC, San Diego, California.